
C O U N C I L C O M M U N I C A T I O N

TO: THE CITY COUNCIL
FROM: THE CITY MANAGER'S OFFICE

COUNCIL MEETING DATE
March 15, 1989

SUBJECT: REVISED "CURBSTONING" ORDINANCE

PREPARED BY: City Attorney

RECOMMENDED ACTION: Council consideration and possible adoption of the attached draft of curbstoning ordinance.

BACKGROUND INFORMATION: At the City Council meeting of September 3, 1988, the Council directed staff to prepare a revised curbstoning ordinance in response to the Lodi Municipal Court's decision of August 8, 1988, overturning the City's existing ordinance which prohibited the parking of vehicles on a public street "... for the purpose of displaying such vehicle ... for sale ..." This blanket prohibition was deemed unconstitutional as an infringement on commercial speech.

The model ordinances provided by the League of California Cities were not much help, since they were all similar to the one overturned. This means the new ordinance was drafted without the aid of reference to other ordinances previously upheld. However, courts have in the past, approved "time, place and manner" restrictions (as opposed to total bans) on other constitutionally protected activities, and the new ordinance was prepared with that principle in mind. The attached draft reflects those concerns expressed at the February 28, 1989 shirtsleeves session.

The ordinance would limit displays on vehicles, vessels and trailers to a single sign not exceeding one square foot, and prohibit any party from having more than two vehicles, vessels or trailers displaying such signs parked on City streets at any one time.

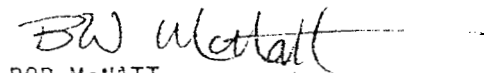
Although persons would be able to park vehicles, vessels or trailers with "for sale" signs on them in some areas, it would not be allowed within two hundred feet of any signalized intersection or four-way stop sign, based on safety considerations. Part D of the draft addresses situations in which people park vehicles in shopping center parking lots and other similar locations on the property of others in order to maximize exposure to passing traffic. This portion of the ordinance prohibits persons from parking on property not belonging to the owner of the vehicle without the express consent of the property owner or person in control of the property. In the absence of proof of owner's consent, the vehicle owner could be cited under this section.

The previous ordinance's limitation on parking vehicles on the street for painting, greasing, repairing, washing, polishing, etc. is retained.

Council Communication, Page Two
Revised Curbstoning Ordinance

Although this may not prove to be as comprehensive as our previous ordinance, I believe *it* will withstand court scrutiny if challenged, and will provide some control over potential eyesores and traffic hazards.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "BW McNatt", with a horizontal line extending to the right.

BOB McNATT
City Attorney

BM:vc

attachment

CURBSTON.3/TXTA.01V

ORDINANCE NO. 1450

AN ORDINANCE OF THE LODI CITY COUNCIL
REPEALING LODI MUNICIPAL CODE CHAPTER 10.44.040
AND REENACTING A NEW CHAPTER 10.44.040

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Chapter 10.44 - Stopping, Standing and Parking, Section 10.44.040 - Parking for Certain Purposes Prohibited - *is* hereby repealed and a ~~new~~ Chapter 10.44.040 is reenacted as follows:

10.44.040 PARKING FOR CERTAIN PURPOSES PROHIBITED; ~~DISPLAY~~ OF "FOR SALE" SIGNS ON VEHICLES, VESSELS OR TRAILERS -
RESTRICTIONS.

A. It shall **be** unlawful to park upon any public street, right-of-way or public property any vehicle, vessel or trailer displaying a sign advertising such vehicle, vessel or trailer for sale which exceeds one square foot in size, or displaying more than **one** such sign, or to attach to or otherwise affix to such vehicle, vessel or trailer any other sign, banner, pennant, balloon or other device, intended to call attention to the fact that such vehicle, vessel or trailer *is* offered for sale.

B. It shall be unlawful for any person or firm to have parked contemporaneously on the public streets or rights-of-way anywhere within the City of Lodi, three or more vehicles, vessels or trailers displaying a sign or signs indicating or advertising

such vehicle, vessel or trailer for sale, irrespective of the proximity of such vehicles, vessels or trailers.

C. Notwithstanding subsection A of this ordinance, it shall be unlawful to park upon any public street, right-of-way or public place within two hundred feet of any signalized intersection or 4-way stop sign, any vehicle, vessel or trailer displaying a sign advertising such vehicle, vessel or trailer for sale, irrespective of the size or number of such signs. The Lodi City Council hereby finds and declares that vehicles, vessels or trailers parked within two hundred feet of a signalized intersection or 4-way stop sign, and displaying such signs, constitute a traffic hazard by distracting the attention of passing motorists and pedestrians away from other traffic moving through and about such intersections. For purposes of this section, "signalized intersection" shall mean any intersection controlled by a traffic signal.

D. It shall be unlawful for any person or firm, upon property belonging to another, to park or display within thirty feet of the adjacent public street or right-of-way as measured from the rear edge of the curb, gutter or sidewalk, or from the edge of the pavement if no curb, gutter or sidewalk exists, any vehicle, vessel or trailer displaying a sign or signs advertising it for sale, without first obtaining the express consent of the owner or person having control of such property. This section shall not apply to any private property appropriately zoned and

licensed for the sale, repair, or storage of such vehicles, vessels or trailers.

E. It shall be unlawful upon any public street, right-of-way or public property to park any vehicle, vessel or trailer for the purpose of painting, greasing, or repairing such vehicle, vessel or trailer except for emergency repairs.

F. It shall be unlawful to park any vehicle, vessel or trailer upon any public street or right-of-way for the purpose of washing or polishing such vehicle, vessel or trailer or any part thereof when a charge is made for such service.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this day of

JAMES W. PINKERTON, JR.
Mayor

ATTEST:

ALICE M. REIMCHE
City Clerk

State of California
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Lodi held _____ and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____ by the following vote:

Ayes :	Council Members -
Noes :	Council Members -
Absent:	Council Members -
Abstain:	Council Members -

I further certify that Ordinance No. _____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

ALICE M. REIMCHE
City Clerk

Approved as to Form

BOBBY W. McNATT
City Attorney

ORD1450/TXTA.01V